

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

CARL LONG,

Petitioner,

v.

Case No. 2:08-CV-10899

TOM PHILLIPS,

Respondent.

**OPINION AND ORDER DENYING PETITIONER'S REQUEST TO OBTAIN
DOCUMENTS ON FILE IN CASE NUMBER 03-008071**

On March 4, 2008, Petitioner Carl Long filed a *pro se* application for a writ of habeas corpus, concerning his 2003 jury convictions for armed robbery. On March 7, 2008, this court issued an order requiring Respondent to answer Petitioner's petition by September 15, 2008. Before the court now is Petitioner's request to obtain documents on file in Case Number 03-008071, received in letter form on April 28, 2008.¹ Petitioner asks this court to order the Michigan Court of Appeals to provide him with the documents from his state case in Case Number 03-008071, so that he may file his rebuttal brief in response to Respondent's answer to his petition. The court will treat Petitioner's letter as a motion requesting documents. For the reasons stated below, the

¹There is no indication that the letter was served on Respondent. Respondent will, however, receive a copy of the letter when it is electronically filed on this court's docket. Letters sent directly to the court have the appearance of an improper attempt at *ex parte* communication and do not comply with the local rules. In the future, Petitioner is instructed to submit his requests in motion form and to serve a copy on opposing counsel.

court finds Petitioner's request premature and therefore denies his request to obtain documents on file in Case Number 03-008071.

28 U.S.C. § 2250 states:

If on any application for a writ of habeas corpus an order has been made permitting the petitioner to prosecute the application in forma pauperis, the clerk of any court of the United States shall furnish to the petitioner without cost certified copies of such documents or parts of the record on file in his office as may be required by order of the judge before whom the application is pending.

28 U.S.C. § 2250.

The court will deny Petitioner's request for the documents from his state case because these documents are not on file with the Clerk's Office for the United States District Court for the Eastern District of Michigan. See *Irby v. Swenson*, 361 F.Supp. 167, 168 (E.D. Mo. 1973). After Respondent has filed both its answer to Petitioner's petition and the necessary Rule 5 materials with the court, Petitioner may renew his motion. Respondent is directed to narrowly tailor any such motion as to those documents actually necessary to prepare his reply.

For the reasons stated, Petitioner's request to obtain documents on file in Case Number 03-008071 is DENIED WITHOUT PREJUDICE.

S/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: June 2, 2008

I hereby certify that a copy of the foregoing document was mailed to Carl Long and counsel of record on this date, June 2, 2008, by electronic and/or ordinary mail.

S/Lisa Wagner
Case Manager and Deputy Clerk
(313) 234-5522